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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Docket Number (Optional)
46500-000599/US

PRE-APPEAL BRIEF REQUEST FOR REVIEW

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

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Application Number
10/653,245

Filed
September 3, 2003

First Named Inventor
Kang Soo SEO et al.

Art Unit
2814

Examiner
Michael P. Choi

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 60,977.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____


Signature

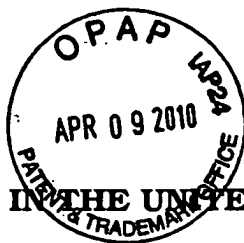
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April 9, 2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/653,245 Art Unit: 2621
Filing Date: September 3, 2003 Examiner: Michael P. Choi
Applicant: Kang Soo SEO et al. Conf.: 2814
Title: RECORDING MEDIUM HAVING DATA STRUCTURE OF
PLAYLIST MARKS FOR MANAGING REPRODUCTION OF
STILL IMAGES RECORDED THEREON AND RECORDING
AND REPRODUCING METHODS AND APPARATUSES

Attorney Docket: 46500-000599/US

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April 9, 2010

REASONS FOR REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

Conferees:

In response to the Final Office Action of December 9, 2009 and Advisory Actions of February 1, 2010 and March 26, 2010, Applicants request that a Pre-Appeal Brief Review Conference review the pending rejection under 35 U.S.C. § 103. The Reasons for Pre-Appeal Brief Request for Review are being filed concurrently with the Pre-Appeal Brief Request for Review and a Notice of Appeal. Claims 1-7 and 12-39 are pending and stand rejected in the present application.

I. THE EXAMINER HAS NOT FAIRLY ACCOUNTED FOR A LIMITATION OF DEPENDENT CLAIM 3.

Initially, please see Applicants' arguments traversing the rejection to claims 3, 4, 17, 18, 23, 24, 29, 30, 35, and 36 on page 15 of the response filed on February 23, 2010. The Examiner applies a navigation pack 86 of

Maruyama, in FIG. 12, including a pack header 110 for “wherein the first mark includes first indicator indicating a playitem where the first mark is placed, and wherein the second mark includes a second indicator indicating a playitem where the second mark is placed.” The pack header 110, at most, contains only a pack start code, a system clock reference, and a multiplexing rate. See Maruyama, Col. 14, ll. 38-42; FIG. 12. The pack start code, system clock reference, and multiplexing rate do not identify the navigation pack 86, nor do they indicate that the pack header 110 belongs to any particular navigation pack 86. Data like start commands, clock timing, and encoding information would not even be unique to any particular navigation pack or Video Object, such that this information could not be used to identify a navigation pack deductively. Maruyama suggests as much, indicating that each piece of information in pack header 110 is standardized data according to the MPEG2 standard, such that each pack header would include similar, non-identifying data. See Maruyama, Col. 14, ll. 38-39. The claims require that each mark’s indicator indicate the playitem with the mark, and the pack header 110 of Maruyama can in no way achieve this.

II. THE EXAMINER HAS NOT FAIRLY ACCOUNTED FOR A LIMITATION OF DEPENDENT CLAIM 6.

Initially, please see Applicants’ arguments traversing the rejection to claims 6, 20, 26, 32, and 38 bridging pages 15-16 of the response filed on February 23, 2010. The Examiner applies, from FIG. 27 of Maruyama, pack

sector numbers ("2048B" "2048b" etc.) of Sectors 1431+ in the VOB 1411 for "wherein the mark information indicates a number of marks in the mark information." The pack sector numbers 2048B, 2048B, 2048b, 2048b of Sectors 1431 Pack sectors in FIG. 27 are redundant and appear to be merely physical addresses; i.e., where the sectors are located on the disc (Maruyama does not elsewhere describe these numbers). See Maruyama, FIG. 27; Col. 35, ll. 21-25. Thus, the pack sector numbers do not indicate a number of pack sectors, because they are not unique for each pack or even recorded, sequential values required for counting "a number of pack sectors." (Of course, the actual numbers 1431 onward shown in FIG. 27 are not a number of marks either, as these numbers are merely identifiers used in the Figure for illustration.)

Also, the Examiner applies C_ID numbers in Maruyama, FIG. 8 as the recited "mark information." The Cell ID numbers are stored in a control information area, separate from the video data. See Maruyama, FIG. 8, elements DA21, DA22. The sector addresses applied by the Examiner for the recited number of marks indicated by the mark information appear to be in the video data. See Maruyama, FIG. 27, Sector 1431 in a Video Pack of VOB 1411. Due to their separation and lack of any other association, it is not at all clear how the C_ID numbers in FIG. 8 are indicated by a Sector numbering of Sectors 1431+ in FIG. 27. Thus, Maruyama further lacks the recited number information indicated by the mark information.

In sum, Maruyama does not disclose every element of claims 3, 4, 6, 17, 18, 10, 23, 24, 26, 29, 30, 32, 35, 36, and 38. The rejections under § 103(a) to these claims are not ready for appeal.

III. THE EXAMINER HAS NOT RESPONDED TO THE ABOVE ARGUMENTS.

Lastly, Applicants note that the above arguments were substantially presented in the two after final responses of January 11, 2010 and February 23, 2010. The Examiner has never responded to these arguments. The two Advisory Actions indicate only that claim amendments incorporating dependent claims 3 and 6 into independent claim 1 would raise new issues requiring further search and consideration, even though the February 23, 2010 response included no amendments. Applicants submit that the Examiner should consider the above arguments presented after the closing of prosecution, in accordance with MPEP § 714.13, and issue an advisory action or other office action indicating his position on the merits of these arguments.

CONCLUSION

In view of the above, Applicants respectfully request that the Conference consider and reverse the current rejections and either allow the present application or reopen prosecution in connection with the present application. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,
HARNES, DICKEY, & PIERCE, P.L.C.

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